

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 8270 of 1998****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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ARUNKUMAR SATYANARAYAN GUPTA - Petitioner(s)

Versus

DY.COLLECTOR STAMP DUTY VALUATION ORGANISATION & 1 - Respondent(s)

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Appearance :

MS DR KACHHAHAH for Petitioner(s) : 1, MS SONAL D VYAS for
Petitioner(s) : 1,
MS ARCHANA RAVAL ASST GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/12/2005

ORAL JUDGMENT

1. In this petition under Articles 226 and 227 of the Constitution of India, the petitioner has

challenged the legality and validity of the order passed by the appellate authority i.e. Chief Controlling Revenue Authority, State of Gujarat dated 3.1.1998 passed in Stamp / Appeal/32-A/136/97 in dismissing the same and confirming the order passed by the Deputy Collector, Stamp Duty Valuation Organization, Nadiad dated 22.7.1996.

2. The petitioner has purchased the property in question by registered sale deed and according to the petitioner, the petitioner has used the stamp duty considering the market value of the property in question as mentioned in the sale deed. The said document was presented before the Sub-Registrar, Nadiad being Document No.235 which was submitted before the Sub-Registrar on 30.3.1990. As the Deputy Collector, Stamp Duty Valuation Organization, Nadiad was of the opinion that the property in question is under valued and proper stamp duty is not used, proceedings under Section-32-A of the Bombay Stamp Act came to be initiated and by order dated 22.7.1996 passed an order directing the petitioner to pay the deficit stamp duty of Rs.60,437/- plus Rs.250/- by

way of penalty in all Rs.60,687/-. Being aggrieved and dissatisfied with the order passed by the Deputy Collector, Stamp Duty Valuation, Nadiad dated 22.7.1996 passed under Section-32-A of the Bombay Stamp Act, the petitioner preferred an appeal before the Chief Controlling Authority, State of Gujarat under Section-32-A of the Bombay Stamp Act being Appeal No.136 of 1997 and the appellate authority by its order dated 3.1.1998 dismissed the said appeal and confirmed the order passed by the Deputy Collector, Stamp Duty Valuation, Nadiad. Being aggrieved and dissatisfied with the same, the petitioner has preferred the present Special Civil Application under Articles 226 and 227 of the Constitution of India.

3. Ms.Sonal Vyas, learned advocate appearing on behalf of the petitioner has vehemently submitted that the order passed by the appellate authority as stereotype order and no reasons whatsoever has been recorded while deciding the appeal. She has relied upon the judgment of the learned Single Judge of this Court in case of PRADHYUMANBHAI MOHANLAL PATEL V.

STATE OF GUJARAT AND ORS. Reported in 2003 (1) GLR 454 wherein the learned Single Judge of this Court while considering and dealing with similar type of order passed by the very Chief Controlling Revenue Authority has held that when the order is passed by the Chief Controlling Revenue Authority in cyclostyled form wherein some gaps were filled up and few sentences were added, it is nothing but an order passed without proper application of mind and can be said to be a non speaking order.

4. Ms.Archana Raval, learned AGP is not in a position to dispute that the order passed by the Chief Controlling Revenue Authority is not cyclostyled and stereotyped order wherein some gaps are filled up and few sentences are added.

5. Considering the facts and circumstances of the case and the order passed by the appellate authority – Chief Controlling Revenue Authority and considering the judgment of this Court in case of PRADHYUMANBHAI MOHANLAL PATEL V. STATE OF GUJARAT AND ORS. (Supra), it can be said that the impugned order is also passed

without proper application of mind and it is a non speaking order. Accordingly, the same is required to be remanded to the appellate authority for deciding the same afresh in accordance with law and on merits after giving an opportunity to the petitioner as well as the Deputy Collector concerned.

6. For the reasons stated above, the petition succeeds. The impugned order passed by the appellate authority i.e. The Chief Controlling Revenue Authority dated 3.1.1998 passed in Stamp Appeal No.32-B/136 of 1997 with respect to the Document No.235 dated 30.3.1990 presented before the Sub Registrar, Nadiad is hereby quashed and set aside and the matter is remanded to the Chief Controlling Revenue Authority for deciding the same in accordance with law and on merits after giving an opportunity to the petitioner as well as the concerned Deputy Collector as early as possible preferably within six months from the date of receipt of this order and to pass a detail speaking order and while dealing with all the contentions which are raised by the parties.

7. Rule is made absolute to the aforesaid extent.
However, there shall be no order as to costs.

[M.R.Shah, J.]

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